

# HIBERNIA NATIONAL BANK

IN NEW ORLEANS

SEP 1 1977 244A005

Date SEP 1 1977

Fee \$ 10.00

ICC Washington, D. C.

P. O. BOX 61540  
NEW ORLEANS, LA. 70161

August 26, 1977

RECORDATION NO. 8958 Filed & Recorded

SEP 1 1977 - 3 22 PM

Secretary of the Interstate  
Commerce Commission  
Washington, D. C. 20423

INTERSTATE COMMERCE COMMISSION

Dear Sir:

Enclosed please find an original and two executed counterparts of Security Agreement in connection with the loan from Hibernia National Bank in New Orleans to J. Robert Fitzgerald secured by five tank cars. In accordance with 49 C.F.R. §1116.4, the following information is provided:

Debtor:	J. Robert Fitzgerald, 6 Everett Place, New Orleans, Louisiana 70115
Secured Party:	Hibernia National Bank in New Orleans, 313 Carondelet Street, P. O. Box 61540, New Orleans, Louisiana 70161
General Description of Security:	(5) 23,500 gallon nominal capacity tank cars, DOT 111A100W3, exterior coiled and insulated 100-ton roller bearing trucks bearing the following numbers: RTMX12141, RTMX12133, RTMX12135, RTMX12136, RTMX2558

Please file the enclosed Security Agreement and return the original Security Agreement to the undersigned at P. O. Box 61540, New Orleans, Louisiana 70161.

Yours very truly,

*Michael G. Gretchen*

Michael G. Gretchen  
Commercial Loan Officer

INTERSTATE  
COMMERCE COMMISSION  
RECEIVED

AUG 31 1977

ADMINISTRATIVE SERVICES  
F MAIL BRANCH

RECEIVED  
SEP 1 3 11 PM '77  
FEE OPERATIONS  
I.C.C. NEW ORLEANS

**Interstate Commerce Commission**  
**Washington, D.C. 20423**

**9/1/77**

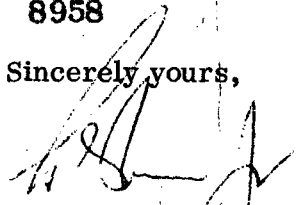
**OFFICE OF THE SECRETARY**

**Mia**  
**Michael G. Gretchen**  
**Commercial Loan Officer**  
**Hibernia National Bank, In New Orleans**  
**P.O.Box 61540**  
**New Orleans, LA.70161**

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the  
provisions of Section 20(c) of the Interstate Commerce Act,  
49 U.S.C. 20(c), on **9/1/77** at **3:20pm**  
and assigned recordation number(s) **8958**

Sincerely yours,

  
**H.G. Homme, Jr.**  
**Acting Secretary**

**Enclosure(s)**

SEP 1 1977 3 22 PM

SECURITY AGREEMENT INTERSTATE COMMERCE COMMISSION

This Security Agreement, made this 26th day of August, 1977, by and between J. Robert Fitzgerald, a person of the full age of majority and a resident of the Parish of Orleans, State of Louisiana (hereinafter called "Debtor"), and HIBERNIA NATIONAL BANK IN NEW ORLEANS, a national banking association having its principal place of business at 313 Carondelet Street, New Orleans, Louisiana (hereinafter called the "Bank"), as follows:

1. Indebtedness. The Security Interest (defined below) is herein created to secure all obligations and indebtedness to Bank, direct or indirect, now existing or hereafter arising, of whatsoever kind or character, whenever or however created or incurred, of Debtor.

2. Agreement and Collateral. For value received, Debtor hereby grants to Bank a security interest ("Security Interest") in the following described property, together with the additional property described in paragraph 3.F hereof ("Collateral"), to-wit:

a. One 23,500 gallon nominal capacity tank car, DOT 111A100W3, exterior coiled and insulated 100-ton roller bearing truck bearing the following number: RTMX 12141

b. One 23,500 gallon nominal capacity tank car, DOT 111A100W3, exterior coiled and insulated 100-ton roller bearing truck bearing the following number: RTMX 12133

c. One 23,500 gallon nominal capacity tank car, DOT 111A100W3, exterior coiled and insulated 100-ton roller bearing truck bearing the following number: RTMX 12135

d. One 23,500 gallon nominal capacity tank car, DOT 111A100W3, exterior coiled and insulated 100-ton roller bearing truck bearing the following number: RTMX 12136

e. One 23,500 gallon nominal capacity tank car, DOT 111A100W3, exterior coiled and insulated 100-ton roller bearing truck bearing the following number: RTMX 2558

f. All rights of Debtor as lessor under any leases of or affecting the Collateral.

The Collateral is to be used primarily in business operations other than farming and to be located initially at Union Carbide Corporation, Texas City, Texas.

3. Debtor's Warranties, Covenants and Further Agreements.

A. Title. Except for the Security Interest, Debtor has, or on acquisition will have, fee simple title to the Collateral free from any lien, security interest, encumbrance or claim (except liens for current taxes not due) and Debtor will, during the term of this Agreement, at Debtor's cost, keep the Collateral free from other liens, security interests, encumbrances

or claims, and defend any action which may affect the Security Interest or Debtor's title to the Collateral. This Agreement and any account, instrument or document which is, or shall be, included in the Collateral is, and shall be, genuine and legally enforceable and free from any setoff, counterclaim or defense.

B. Financing Statement. No security agreement, mortgage, lease or financing statement covering the Collateral or any part or proceeds thereof has heretofore been executed or is on file in any public office and, at Bank's request, Debtor will join in executing all financing statements and other instruments deemed necessary by Bank to perfect the Security Interest and to comply with regulations of the Interstate Commerce Commission, and will pay all costs thereof.

C. Assignment. Notwithstanding any other provision hereof, Debtor will not sell, lease or otherwise dispose of all or part of the Collateral. Bank may assign or transfer all or part of its rights in, and obligations, if any, under the Indebtedness, the Collateral and this Agreement.

D. Insurance. Debtor will insure the Collateral with companies acceptable to Bank against such casualties and in such amounts as Bank shall require with a clause in favor of Debtor and Bank as their interests may appear, and Bank is hereby authorized to collect sums which may become due under any of said policies and apply same to the Indebtedness. All policies of insurance shall provide for written notice to Bank at least ten (10) days prior to cancellation. Risk of loss not covered by insurance is in Debtor.

E. Maintenance. Debtor will preserve the Collateral, keep same in good order and repair (at Debtor's own risk of loss), and will not waste, destroy, lose, allow to deteriorate (other than ordinary wear and tear), or materially modify the Collateral, or release any party liable thereon. Debtor will not allow the Collateral to be used in violation of any statute or ordinance. Bank, or its agents, will have the right to examine, audit, and inspect the Collateral and any books or records pertaining thereto (which Debtor agrees to keep in an accurate and complete form, reflecting the assignment, if any, of accounts hereunder) at any time. Debtor shall furnish reports, data and financial statements, including audits by independent public accountants, in respect of the Collateral and Debtor's business and financial condition, as Bank may require. Debtor will pay promptly when due all taxes and assessments on the Collateral for its use and operation and all costs, expenses and insurance premiums necessary to preserve, protect, maintain and collect the Collateral. Bank may, at its option, discharge such costs, expenses, and premiums for the repair, maintenance, and preservation of the Collateral, and all sums so expended shall be part of the Indebtedness.

F. Additional Property. The Collateral includes all proceeds, increases, substitutions, products, offspring, accessions and attachments thereof, including, without limitation, all securities, subscription rights, dividends, or other property or benefits which Debtor is entitled to receive on account of the Collateral; equipment, tools, parts and accessories used in connection therewith; and goods covered by chattel paper, accounts or other items of the Collateral. The Collateral also includes all money or property of Debtor in Bank's possession, held for or owed to Debtor, Bank being granted herein the right to sell off such

money and property against the Indebtedness. For purposes of this Agreement, the references to the terms "account" or "accounts" shall be deemed to include chattel paper as well as accounts, when applicable. Debtor will immediately deliver all additional property to Bank upon receipt by Debtor, with proper instruments of transfer and assignment, if possession by Bank is necessary to perfect Bank's security interest or if otherwise required pursuant to this Agreement.

G. Delivery of Receipts to Bank. Upon Bank's demand, Debtor will, upon receipt of any remittance in payment or for the Collateral, immediately deposit all of same properly endorsed in a special bank account maintained with Bank over which Bank alone has power of withdrawal. The funds in said bank account shall be held by Bank as security for the Indebtedness. Bank may, from time to time, apply all or part of said collected funds against the Indebtedness.

H. Notice of Changes. Debtor will immediately notify Bank of any change occurring in or to the Collateral, of a change in Debtor's residence, or in any fact or circumstance warranted or represented by Debtor to Bank, or if any event of default occurs.

4. Rights of Bank. Debtor hereby appoints Bank as Debtor's attorney-in-fact to do any act which Debtor is obligated by this Agreement to do, to exercise all rights, voting and otherwise, of Debtor in the Collateral, and to do all things deemed necessary by Bank to perfect the Security Interest and preserve, collect, enforce and protect the Collateral and any insurance proceeds hereunder, all at Debtor's cost and without any obligation on Bank so to act, including, but not limited to, transferring title into the name of Bank, or its nominee, or receipting for, setting, or otherwise realizing upon the Collateral, Bank may, in its discretion, require Debtor to give possession or control of the Collateral to Bank; endorse as Debtor's agent any instruments, documents or accounts in the Collateral; contact account debtors directly to verify or collect accounts; take control of the Collateral or proceeds thereof, and use cash proceeds to reduce any part of the Indebtedness; require Debtor to use its best efforts to cause the issuer of the Collateral to register any or all of the Collateral under applicable securities laws, at the expense of Debtor or such issuer; require additional Collateral; reject as unsatisfactory any property hereafter offered by Debtor as Collateral; designate, from time to time, a certain percentage of the Collateral as the loan value and require Debtor to maintain the Indebtedness at or below such figure. Bank shall not be liable for any act or omission on the part of Bank, its officers, agents or employees, except willful misconduct nor shall Bank be responsible for depreciation in value of the Collateral or for preservation of rights against prior parties. The foregoing rights and powers of Bank may be exercised before or after default and shall be in addition to, and not a limitation upon, any rights and powers of Bank given herein or by law, custom or otherwise.

5. Events of Default. Debtor shall be in default under this Agreement upon the happening of any of the following events or conditions:

A. Default in the timely payment or performance of any obligation, covenant or agreement contained herein, secured hereby or otherwise made or owed to Bank;

B. Any warranty, representation or statement made to Bank by or in behalf of Debtor proves to have been false in any material respect when made;

C. Any event which results in the acceleration of the maturity of the indebtedness of Debtor to others under any indenture, agreement or undertaking;

D. Substantial change in any fact warranted or represented in this Agreement;

E. Sale, loss, theft, destruction, encumbrance or unauthorized transfer of any Collateral, or substantial damage thereto;

F. Any time Bank believes that the prospect of payment of all or part of the Indebtedness or performance of this Agreement is impaired;

G. On Debtor's death, incapacity, insolvency, business failure, appointment of a receiver for any part of the Collateral commission of an act of bankruptcy, assignment for the benefit of creditors or the commencement of any proceeding under any bankruptcy or insolvency law by or against Debtor or any entity of which Debtor is a partner or principal or any maker, guarantor, or other person liable upon or for any Indebtedness or Collateral;

H. Levy on, seizure, or attachment of all or part of the Collateral;

I. Judgment against Debtor which remains unpaid for thirty (30) days.

6. Remedies of Bank upon Default. When an event of default occurs, and at any time thereafter, Bank may declare all or a part of the Indebtedness immediately due and payable and may proceed to enforce payment of same and to exercise any and all of the rights and remedies provided by the Uniform Commercial Code ("Code"), as well as all other rights and remedies possessed by Bank under this Agreement or otherwise at law or in equity. Bank may also require Debtor to assemble the Collateral and make it available to Bank at any place to be designated by Bank which is reasonably convenient to both parties. For purposes of this notice requirements of the Code, Bank and Debtor agree that notice given at least five (5) days prior to the related action hereunder is reasonable. Bank shall be entitled to immediate possession of the Collateral and all books and records evidencing same and shall have authority to enter upon any premises, upon which said items may be situated, and remove same therefrom. Expenses of retaking, holding, preparing for sale, selling, or the like, shall include, without limitation, Bank's reasonable attorneys' fees and all such expenses shall be recovered by Bank before applying the proceeds from the disposition of the Collateral toward the Indebtedness. To the extent allowed by the Code, Bank may use its discretion in applying the proceeds of any disposition of the Collateral and Debtor will remain liable for any deficiency remaining after such disposition. All rights and remedies of Bank hereunder are cumulative and may be exercised singly or concurrently. The exercise of any right or remedy will not be a waiver of any other.

#### 7. General.

A. Waiver by Bank. No waiver by Bank of any right hereunder or of any default by Debtor shall be binding upon Bank unless in writing. Failure or delay by Bank to exercise any right

hereunder or waiver of any default of Debtor shall not operate as a waiver of any other right, of further exercise of such right, or of any further default.

B. Parties Bound. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, receivers, trustees and assigns where permitted by this Agreement. This Agreement shall constitute a continuing agreement, applying to all future as well as existing transactions, such future transactions being contemplated by Debtor and Bank.

C. Texas Law to Apply. This Agreement shall be construed in accordance with the Code (the definitions of which apply herein) and other applicable laws of the State of Texas.

D. Notice. Notice shall be given or sent when mailed postage prepaid to Debtor's address given above or to Debtor's most recent address as shown by notice of change on file with Bank.

E. Modification. This Agreement shall not be amended in any way except by a written agreement signed by both parties hereto.

F. Severability. The unenforceability of any provision of this Agreement shall not affect the enforceability or validity of any other provision hereof.

G. Construction. If there is any conflict between the provisions hereof and the provisions of the Indebtedness, the latter shall control. The captions herein are for convenience of reference only and not for definition or interpretation.

H. Waiver of Debtor. Debtor hereby waives presentment, demand, notice of dishonor, protest, and notice of protest, and all other notices with respect to collection, or acceleration of maturity, of the Collateral and Indebtedness.

HIBERNIA NATIONAL BANK IN NEW ORLEANS

By: Michael Gretchen  
Michael Gretchen  
Commercial Loan Officer

DEBTOR:

J. Robert Fitzgerald  
J. Robert Fitzgerald

ACKNOWLEDGEMENT

STATE OF LOUISIANA

PARISH OF ORLEANS

On this 26th day of August, 1977,

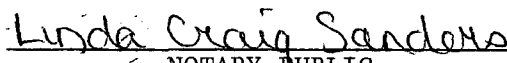
BEFORE ME, a Notary Public, in and for the State and Parish  
aforesaid, personally came and appeared:

MICHAEL GRETCHEN

to me personally known, who being by me duly sworn, says that he is the  
Commercial Loan Officer of Hibernia National Bank in New Orleans,  
that the seal affixed to the foregoing instrument is the corporate seal  
of said corporation, that said instrument was signed and sealed on behalf  
of said corporation by authority of its Board of Directors, and he ack-  
nowledged that the execution of the foregoing instrument was the free  
act and deed of said corporation.

  
\_\_\_\_\_  
Michael Gretchen

Sworn to and subscribed before me  
this 26th day of August, 1977.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires at death.



ACKNOWLEDGEMENT

STATE OF LOUISIANA

PARISH OF ORLEANS

On this 26th day of August, 1977,

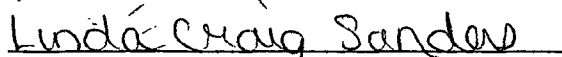
BEFORE ME, a Notary Public in and for the State and Parish  
aforesaid, personally came and appeared:

F. ROBERT FITZGERALD

to me known to be the person described in and who executed the foregoing  
instrument and he acknowledged that he executed the same as his free act  
and deed.

  
F. Robert Fitzgerald

Sworn to and subscribed before me  
this 26th day of August, 1977.

  
NOTARY PUBLIC

My commission expires at death.